REMARKS

This is a full and timely response to the non-final Official Action mailed **January 11, 2005**. Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

By the forgoing amendment, several minor typographical errors in the specification have been corrected. None of the original claims has been amended or cancelled. New claims 54-70 have been added. Thus, claims 1-70 are currently pending for the Examiner's consideration.

In the outstanding Office Action, the Examiner indicated the allowance of claims 1-40. Applicant wishes to thank the Examiner for the allowance of these claims.

The recent Office Action also contains a statement of reasons for the allowance of claims 1-40. Applicant agrees with the Examiner's conclusions regarding patentability, without necessarily agreeing with or acquiescing in the Examiner's reasoning. In particular, Applicant believes that claims 1-40 are allowable because the prior art fails to teach, anticipate or render obvious the subject matter as claimed, independent of how the claims are paraphrased.

With regard to the prior art, claim 41-50 were rejected as anticipated under 35 U.S.C. § 102(b) by U.S. Patent Application Publication No. 2002/0096631 to Andrien et al. ("Andrien"). Additionally, claims 46-48 and 51-53 were rejected as unpatentable under 35 U.S.C. § 103(a) by Andrien and U.S. Patent No. 6,649,907 to Ebeling et al. ("Ebeling"). For at least the following reasons, these rejections are respectfully traversed.

Claim 41 recites:

> A system for producing electrospray ions comprising:
> a means for thermally actuating the discharge of a plurality of sample material particles;
> a means for emitting said sample material particles disposed adjacent to said means for thermally actuating a discharge, said means for emitting being configured to selectively apply a voltage potential; and
> said means for emitting being configured to permit a passage of said plurality of sample material particles.

(emphasis added).

In contrast, Andrien does not teach or suggest a means for thermally actuating the discharge of a plurality of sample particles, as claimed. According to the Office Action, Andrien teaches such subject matter at, for example, paragraphs 0047 & 0048. To the contrary, however, paragraph 0048 of Andrien teaches a number of liquid delivery systems *none of which are thermally actuated.*

> Liquid delivery systems may include but are not limited to, liquid pumps with or without auto injectors, separation systems such as liquid chromatography or capillary electrophoresis, syringe pumps, pressure vessels, gravity feed vessels or solution reservoirs. During ES source operation, the spray produced from each ES probe can be initiated by turning on the liquid flow using a solution delivery system. With the appropriate solution reservoir configuration, pneumatic nebulization gas flow can also be used to initiate Electrospray.

(Andrien, para. 0048).

Paragraph 0047 of Andrien does mention that "ES source 114 can be configured with heated counter current drying gas to aid in the evaporation of the Electrospray produced charged droplets sprayed sequentially or simultaneously from one, two or more ES tips." (Andrien, para. 0047). However, as one of skill in the art would immediately appreciate, this "heated" drying gas is applied after the droplets or particles of sample material have been ejected so as to evaporate the solvent in the sample. Thus, the heated drying gas mentioned by Andrien does not, in any way, teach or suggest a "thermally actuated" means for discharging sample material particles or droplets.

Consequently, Andrien fails to teach or suggest the subject matter of claim 41, particularly, the "means for *thermally actuating* the discharge of a plurality of sample material particles." "A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 41 based on Andrien should be reconsidered and withdrawn. This also applies to the corresponding rejection of all claims that depend from claim 41 whether rejected solely on the teachings of Andrien or on the teachings of Andrien in combination with another reference.

As noted above, claims 46-48 and 51-53 were rejected as unpatentable under 35 U.S.C. § 103(a) by Andrien and U.S. Patent No. 6,649,907 to Ebeling et al. ("Ebeling"). These claims are thought to be patentable over the cited prior art for at least the same reasons given above with respect to claim 41, from which claims 46-48 and 51-53 depend.

The newly-added claims are thought to be patentable for at least the same reasons as the various original independent claims and for the reasons given above with respect to claim 41. Therefore, examination and allowance of the newly-added claims is respectfully requested.

For the foregoing reasons, the present application is thought to be clearly in condition for allowance. Accordingly, favorable reconsideration of the application in light of these remarks is courteously solicited. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

DATE: 1 April 2005

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CERTIFICATE OF MAILING

DATE OF DEPOSIT: **April 1, 2005**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on the date indicated above in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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